

ORDINANCE NO. 08-08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, ENACTING A NEW ARTICLE II, "NOISE CONTROL," OF CHAPTER 12, "OFFENSES - MISCELLANEOUS," TO PROVIDE FOR PURPOSE; FINDINGS; SCOPE; DEFINITIONS; GENERAL PROHIBITION; NOISES PROHIBITED; EXEMPTIONS; ENFORCEMENT; PENALTIES; CONFLICTS; SEVERABILITY; SAVINGS CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, the Florida Constitution and Chapter 125, Florida Statutes, authorize Leon County to adopt ordinances regulating, restricting, or prohibiting the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

WHEREAS, excessive sound vibration and inadequately controlled noise are serious hazards to the public health, safety, and welfare, and a source of annoyance to the populace; and

WHEREAS, the citizens of Leon County have a right to an environment free from excessive sound and vibration that may jeopardize their health and welfare or degrade the quality of life; and

WHEREAS, it is the policy of Leon County to protect the health, safety, and welfare of its citizens and to promote an environment free from sound and noise disruptive of peace and good order; and

WHEREAS, it is the policy of Leon County to prevent excessive noise that may jeopardize the health or welfare of its citizens or degrade the quality of life; and

WHEREAS, the Board of County Commissioners desires to enact an ordinance amending Chapter 14 of the Leon County Code of Laws, relating to Public Nuisances.

BE IT ORDAINED by the Board of County Commissioners of the County of Leon, Florida, as follows, that:

1 **Section 1.** The Code of Laws of Leon County, Florida, is hereby amended at Chapter 12,
2 “Offenses – Miscellaneous,” by adding a new Article, to be numbered Article II, “Noise
3 Control,” which Article shall read as follows:

4 Article II. Noise Control.

5 Section 1. Purpose. This Ordinance is enacted to protect, preserve, and promote the
6 health, safety, welfare, peace, and quiet of the citizens of Leon County through the
7 reduction, control, and prevention of loud and raucous noise, or any noise which
8 unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety
9 of reasonable persons of ordinary sensitivity.

10 Section 2. Findings.

11 A. Loud and raucous noise degrades the environment of Leon County to a
12 degree that:

- 13 1. is harmful to the health, welfare, and safety of its inhabitants and
14 visitors;
- 15 2. interferes with the comfortable enjoyment of life and property;
- 16 3. interferes with the well being, tranquility, and privacy of the home;
- 17 and
- 18 4. both causes and aggravates health problems.

19 B. Both the effective control and the elimination of loud and raucous noise
20 are essential to the health and welfare of Leon County’s inhabitants and visitors,
21 and to the conduct of the normal pursuits of life, including recreation, work, and
22 communication.

23 C. The use of sound amplification equipment creates loud and raucous noise
24 that may, in a particular manner and at a particular time and place, substantially

1 and unreasonably invade the privacy, peace, and freedom of inhabitants of, and
2 visitors to Leon County.

3 D. Certain short-term easing of noise restrictions is essential to allow the
4 construction and maintenance of structures, infrastructure, and other elements
5 necessary for the physical and commercial vitality of Leon County.

6 Section 3. Scope. This Ordinance applies to the control of all sound originating
7 within the jurisdictional limits of Leon County lying outside the municipal limits of the
8 City of Tallahassee.

9 Section 4. Definitions.

10 A. *Emergency* means any occurrence or set of circumstances involving actual
11 or imminent physical trauma or property damage demanding immediate
12 attention.

13 B. *Emergency Work* means any work performed for the purpose of
14 preventing or alleviating physical trauma or property damage, whether
15 actually caused or threatened by an emergency, or work by private or
16 public utilities when restoring utility service.

17 C. *Noise Sensitive Area* includes, but is not limited to, a posted area where a
18 school, hospital, nursing home, church, court, public library, or similar
19 institution is located.

20 D. *Person* means any individual, firm, association, partnership, joint venture,
21 or corporation.

22 E. *Public Right-of-Way* means any street, avenue, boulevard, highway,
23 sidewalk, alley, or similar place normally accessible to the public which is
24 owned or controlled by a government entity.

1 F. *Public Space* means any real property or structures on real property,
2 owned by a government entity and normally accessible to the public,
3 including but not limited to parks and other recreational areas.

4 G. *Residential Area* means any real property which contains a structure or
5 building in which one or more persons reside, provided that the structure
6 or building is properly zoned, or is legally nonconforming, for residential
7 use in accordance with the terms and maps of Leon County's zoning
8 ordinances.

9 Section 5. General Prohibition.

10 A. No person shall make, continue, or cause to be made or continued:

11 1. any unreasonably loud or raucous noise;
12 2. any noise which unreasonably disturbs, injures, or endangers the
13 comfort, repose, health, peace, or safety of reasonable persons of ordinary
14 sensitivity, within the unincorporated areas of Leon County; or,

15 3. any noise which is so harsh, prolonged, unnatural, or unusual in
16 time or place as to occasion unreasonable discomfort to any persons within the
17 neighborhood from which said noises emanate, or as to unreasonably interfere
18 with the peace and comfort of neighbors or their guests, or operators or customers
19 in places of business, or as to detrimentally or adversely affect such residences or
20 places of business.

21 B. Factors for determining whether a sound is unreasonably loud and raucous
22 include, but are not limited to, the following:

23 1. the proximity of the sound to sleeping facilities, whether
24 residential or commercial;

- 1 2. the land use, nature, and zoning of the area from which the sound
- 2 emanates and the area where it is received or perceived;
- 3 3. the time of day or night the sound occurs;
- 4 4. the duration of the sound; and
- 5 5. whether the sound is recurrent, intermittent, or constant.

6 Section 6. Noises Prohibited. The following acts are declared to be *per se* violations
7 of this Ordinance. This enumeration does not constitute an exclusive list:

8 A. *Unreasonable Noises:* The unreasonable making of, or knowingly and
9 unreasonably permitting to be made, any unreasonably loud, boisterous or
10 unusual noise, disturbance, commotion or vibration in any boarding
11 facility, dwelling, place of business or other structure, or upon any public
12 street, park, or other place or building. The ordinary and usual sounds,
13 noises, commotion or vibration incidental to the operation of these places
14 when conducted in accordance with the usual standards of practice and in
15 a manner which will not unreasonably disturb the peace and comfort of
16 adjacent residences or which will not detrimentally affect the operators of
17 adjacent places of business are exempted from this provision.

18 B. *Vehicle Horns, Signaling Devices, and Similar Devices:* The sounding of
19 any horn, signaling device, or other similar device, on any automobile,
20 motorcycle, or other vehicle on any right-of-way or in any public space of
21 Leon County for more than ten (10) consecutive seconds. The sounding
22 of any horn, signaling device, or other similar device, as a danger warning
23 is exempt from this prohibition.

1 C. *Non-Emergency Signaling Devices:* Sounding or permitting sounding of
2 any amplified signal from any bell, chime, siren, whistle or similar device,
3 intended primarily for non-emergency purposes, from any place for more
4 than ten (10) consecutive seconds in any hourly period. The reasonable
5 sounding of such devices by houses of religious worship, ice cream trucks,
6 seasonal contribution solicitors, or by law enforcement for traffic control
7 purposes are exempt from the operation of this provision.

8 D. *Emergency Signaling Devices:* The intentional sounding or permitting the
9 sounding outdoors of any emergency signaling device including fire,
10 burglar, civil defense alarm, siren, whistle, or similar emergency signaling
11 device, except in any emergency or except as provided in Subsections a.
12 and b., below.

13 a. Testing of an emergency signaling device shall occur between 7:00
14 a.m. and 8:00 p.m. Any testing shall use only the minimum cycle test
15 time. In no case shall such test time exceed five (5) minutes. Testing
16 of the emergency signaling system shall not occur more than once in
17 each calendar month.

18 b. Sounding or permitting the sounding of any exterior burglar or fire
19 alarm or any motor vehicle burglar alarm, shall terminate within
20 fifteen (15) minutes of activation unless an emergency exists. If a
21 false or accidental activation of an alarm occurs more than twice in a
22 calendar month, the owner or person responsible for the alarm shall be
23 in violation of this Ordinance.

1 E. *Radios, Televisions, Boom Boxes, Phonographs, Stereos, Musical*
2 *Instruments, and Similar Devices:* The use of operation of a radio,
3 television, boom box, stereo, musical instrument, or similar device that
4 produces or reproduces sound in a manner that is plainly audible to any
5 person other than the player(s) or operator(s) of the device, and those who
6 are voluntarily listening to the sound, and which unreasonably disturbs the
7 peace, quiet, and comfort of neighbors and passers-by, or is plainly
8 audible at a distance of 50 feet from any person in a commercial, industrial
9 area, or public space. The use or operation of a radio, television, boom
10 box, stereo, musical instrument, or similar device that produces or
11 reproduces sound in a manner that is plainly audible to any person other
12 than the player(s) or operator(s) of the device, and those who are
13 voluntarily listening to the sound, and unreasonably disturbs the peace,
14 quiet, and comfort of neighbors in residential or noise sensitive areas,
15 including multi-family or single-family dwellings.

16 F. *Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices:*
17 The unreasonably loud and raucous use or operation of a loudspeaker,
18 amplifier, public address system, or other device for producing or
19 reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on
20 weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the
21 following areas:

22 a. within or adjacent to residential or noise-sensitive areas; and

1 b. within public space if the sound is plainly audible across the real
2 property line of the public space from which the sound emanates, and
3 is unreasonably loud and raucous.

4 This shall not apply to any public performance, gathering, or parade for which a
5 permit has been obtained from a governmental agency with jurisdiction.

6 G. *Yelling, Shouting, and Similar Activities:* Yelling, shouting, hooting,
7 whistling, or singing in residential or noise sensitive areas or in public
8 places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or
9 place so as to unreasonably disturb the quiet, comfort, or repose of
10 reasonable persons of ordinary sensitivities.

11 H. *Animals and Birds:* Unreasonably loud and raucous noise emitted by an
12 animal or bird for which a person is responsible. A person is responsible
13 for an animal if the person owns, controls or otherwise cares for the
14 animal or bird. Sounds made by animals or birds in animal shelters,
15 kennels, veterinary hospitals, pet shops, or pet kennels licensed under and
16 in compliance with any applicable licensing and permitting provisions are
17 exempt from this subsection.

18 I. *Loading or Unloading Merchandise, Materials, Equipment:* The creation
19 of unreasonably loud, raucous, and excessive noise in connection with the
20 loading or unloading of any vehicle at a place of business or residence.

21 J. *Construction or Repair of Buildings, Excavation of Streets and Highways:*
22 The construction, demolition, alteration or repair of any building or the
23 excavation of streets and highways other than between the hours of 7:00
24 a.m. and 8:00 p.m. on weekdays. In cases of emergency, construction or

1 repair noises are exempt from this provision. In non-emergency
2 situations, the County Administrator, or his/her designee may issue a
3 permit, upon application, if the County Administrator, or his/her designee,
4 determines that the public health and safety, as affected by loud and
5 raucous noise caused by construction or repair of buildings or excavation
6 of streets and highways between the hours of 8:00 p.m. and 7:00 a.m. will
7 not be impaired, and if the County Administrator, or his/her designee,
8 further determines that loss or inconvenience would result to a party in
9 interest. The permit shall grant permission in non-emergency cases for a
10 period of not more than three (3) days. The permit may be renewed once
11 for a period of three (3) days or less.

12 K. *Noise Sensitive Areas – Schools, Courts, Churches, Hospitals, and Similar*
13 *Institutions:* The creation of any unreasonably loud and raucous noise
14 adjacent to any noise sensitive area while it is in use, which unreasonably
15 interferes with the workings of the institution or which disturbs the
16 persons in these institutions; provided that conspicuous signs delineating
17 the boundaries of the noise sensitive area are displayed in the streets
18 surrounding the noise sensitive area.

19 L. *Blowers, and Similar Devices:* In residential or noise sensitive areas,
20 between the hours of 8:00 p.m. and 7:00 a.m., the operation of any noise-
21 creating blower, power fan, or any internal combustion engine, the
22 operation of which causes noise due to the explosion of operating gases or
23 fluids, provided that the noise is unreasonably loud and raucous and can
24 be heard across the property line of the property from which it emanates.

1 M. *Commercial Establishments Adjacent to Residential Property:*
2 Unreasonably loud and raucous noise from the premises of any
3 commercial establishment, including any outdoor area which is part of or
4 under the control of the establishment, between the hours of 10:00 p.m.
5 and 7:00 a.m. which is plainly audible at a distance of five (5) feet from
6 any residential property.

7 Section 7. Exemptions. Sounds caused by the following are exempt from the
8 prohibitions set out in Section 6, Noises Prohibited, above:

- 9 A. Motor vehicles on traffic ways of Leon County, provided that the
10 prohibition of Section 6. (B) above continues to apply.
- 11 B. Repairs of utility structures which pose a clear and immediate danger to
12 life, health, or significant loss of property.
- 13 C. Sirens, whistles, or bells lawfully used by emergency vehicles, or other
14 alarm systems used in case of fire, collision, civil defense, police activity,
15 or imminent danger, provided that the prohibition contained in Section 6.
16 (D) above continues to apply.
- 17 D. The emission of sound for the purpose of alerting persons to the existence
18 of an emergency or the emission of sound in the performance of
19 emergency work.
- 20 E. Repairs or excavations of bridges, streets or highways by or on behalf of
21 any local government, the State, or the federal government, between the
22 hours of 8:00 p.m. and 7:00 a.m., when public welfare and convenience
23 renders it impractical to perform the work between 7:00 a.m. and 8:00
24 p.m.

1 F. Outdoor School and Playground Activities. Reasonable activities
2 conducted on public playgrounds and public or private school grounds,
3 which are conducted in accordance with the manner in which such spaces
4 are generally used, including but not limited to, school athletic and school
5 entertainment events.

6 G. Other Outdoor Events. Outdoor gatherings, public dances, shows and
7 sporting events, and other similar outdoor events, provided that a permit
8 has been obtained from the appropriate permitting authority.

9 H. Outdoor Hunting or Hunting Sports. The discharge of firearms in rural
10 areas in the normal course of legal hunting activities or customary
11 shooting sports such as skeet, trap, and target shooting.

12 Section 8. Enforcement.

13 A. The following individuals shall enforce this Ordinance: the Sheriff of
14 Leon County will have primary responsibility for the enforcement of the
15 noise regulations contained herein. Nothing in this Ordinance shall
16 prevent the Sheriff from obtaining voluntary compliance by way of
17 warning, notice, or education.

18 B. If a person's conduct would otherwise violate this Ordinance and consists
19 of speech or communication; of a gathering with others to hear or observe
20 speech or communication; or of a gathering with others to picket or
21 otherwise express in a non-violent manner a position on social, economic,
22 political, or religious questions, then the person must be ordered to, and
23 have the opportunity to, move, disperse, or otherwise remedy the violation
24 prior to a citation being issued.

1 Section 9. Penalties.

2 A. A person who violates a provision of this Ordinance is guilty of a civil
3 infraction which is punishable by a fine not to exceed \$500.00.

4 B. Each occurrence of a violation, or, in the case of continuous violations,
5 each day a violation occurs or continues, constitutes a separate offense and
6 may be punished separately.

7 **Section 2.** **Conflicts.**

8 All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are
9 hereby repealed to the extent of such conflict, except to the extent of any conflicts with the
10 Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail
11 over any parts of this Ordinance which are inconsistent, either in whole or in part, with the said
12 Comprehensive Plan, and, further, that this Ordinance shall not repeal, amended, or replace the
13 provisions found in Section 4-36 of the Leon County Code of Laws.

14 **Section 3.** **Severability.**

15 If any provisions or portion of this Ordinance is declared by any court of competent
16 jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and
17 portions of this Ordinance shall remain in full force and effect.

18 **Section 4.** **Savings Clause.**

19 An enforcement action which is pending on the effective date of this Ordinance and
20 which arose from a violation of an ordinance repealed by this Ordinance, or an enforcement
21 action which is started within one (1) year after the effective date of this Ordinance arising from
22 a violation of an ordinance repealed by this Ordinance, shall be tried and determined exactly as if
23 the ordinance had not been repealed.

1 **Section 5. Effective Date.**

2 This Ordinance shall have effect upon becoming law, but shall not be enforced or
3 implemented until after 12:01 a.m. on May 1, 2008.

4 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon
5 County, Florida this 8th day of April, 2008.



6 LEON COUNTY, FLORIDA

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9
10 By: Jane G. Sauls
11 Jane G. Sauls, Chairman
12 Board of County Commissioners
13

14 ATTESTED BY:
15 BOB INZER, CLERK OF THE COURT
16 LEON COUNTY, FLORIDA

17
18
19 By: [Signature]
20 Bob Inzer, Clerk of Court
21 Leon County, Florida
22

23 APPROVED AS TO FORM:
24 COUNTY ATTORNEY'S OFFICE
25 LEON COUNTY, FLORIDA

26
27
28
29 By: [Signature]
30 Herbert W. A. Thiele, Esq.
31 County Attorney